



State of Utah

GARY R. HERBERT

Governor

GREG BELL

Lieutenant Governor

NEAL T. GOOCH

Insurance Commissioner

Insurance Department

State of Utah Title and Escrow Commission Meeting Meeting Information

Date: December 10, 2012

Time: 9:00 AM

Place: East Bldg, Spruce Room

MEMBERS

(Attendees=x)

COMMISSION MEMBERS

xChair, Larry Turner Blake, *Washington Cnty* xJerry M. Houghton, *Tooele Cnty*
xCo-Chair, Kirk Donald Smith, *Weber Cnty* xDirk Keyes, *Public Member*
xCortlund G. Ashton, *Salt Lake Cnty*

DEPARTMENT STAFF

xPerri Babalis, *AG Counsel* xBrett Barratt, *Deputy Comm.* Mark Kleinfield, *ALJ*
xSuzette Green-Wright, *MC Dir.* xTammy Greening, *Examiner* Adam Martin, *Examiner*
xJilene Whitby, *PIO Recorder* xRandy Overstreet, *Producer Licensing*

PUBLIC

Tige Garner	Carol Yamamoto	Roy Poll	Peter Stevens
Lincoln Scoffield	James Seaman	Mike Smith	Matt Saeger
Jim Nelson	Jeff Wiener		

MINUTES

General Session: (Open to the Public)

- **Welcome** / Larry Blake, Chair at 9:04 AM
- **Adopt Minutes for 11-19-2012 Meeting**
 - Cort suggested the following changes to the last bullet on page 2, starting at the second sentence:
Jeff said ULTA formed an underwriter section that ~~has~~ reviewed and discussed the rule and submitted a redline proposal to the Commission. This section represents About 96% of title insurance business ~~the underwriters participated in that effort.~~
 - Cort then suggested changes to the second to the last bullet on page 2, starting at the third sentence:
One of the options discussed by the Commission was the existing contracts ~~tried to come to an understanding~~ with underwriters ~~regarding this but they want to rely on their contracts.~~ Another option being pursued is a proposal from underwriters themselves as to minimum search standards. Cort told...
 - Larry asked if the members had received ULTA's redlined draft of the rule. Only he had. Jerry made a **motion** to accept the minutes as amended, Kirk seconded it and the vote was unanimous.
- **Reports**
 - **Concur with Licensee Report** / Tammy
Cort made a **motion** to concur with the report, Dirk seconded it and the vote was unanimous.
 - **Concur with Complaint & Enforcement Reports** / Suzette
Jerry did not see that case 61619 in the Open Investigations Summary was reflected on the Open and Closed Investigations or the Complaint Report. Suzette will fix. She distributed a revised report entitled, "Other UID Interaction with the Title Industry." It

was accepted by the Commission and they asked that it be updated quarterly. Dirk **concurred** with the report, Cort seconded it and the vote was unanimous.

- **Request for Attorney Exemption:** None
- **Administrative Proceedings Action / ALJ**
 - **Stipulation & Order:**
 - **Absolute Title Insurance Agency**
 - ✓ Mark Kleinfeld, ALJ, was not present so the Commission directed their questions to Department staff. Tammy confirmed that Bridgett and Mathew Lloyd were spouses.
 - ✓ Larry noted that Bridgett's license was revoked for five years. Page 7 b states that she cannot be employed by Absolute Title during her probation. Larry thought she should not be employed by the agency for the entire 5 year period.
 - ✓ Larry questioned if she could be a mobile notary without a license? He wanted to know who signed the commitments fraudulently. Did they charge less than the mandatory amount?
 - ✓ Tammy said the Stip was an agreement between the Respondents and the AG's office. Perri advised the Commission to send the Stip back if they were not satisfied with the Findings of Fact.
 - ✓ Dirk noted that a title agency owner was not required to have a title license.
 - ✓ Cort made a **motion** to send the Stip back questioning:
 1. the scope of the investigation, who signed the commitments, and whose license was relied upon?
 2. Is the discrepancy between the 2 year and 5 year prohibition against Bridgett Lloyd intentional?
 - Kirk seconded the motion and the vote was unanimous.
 - **Request for a Hearing:** None
 - **Order on Motion:** None
 - **Informal Adjudicative Proceeding & Order:** None
 - **Formal Adjudicative Proceeding:** None
- **Old Business**
 - **Proposed Rule R592-17, "Minimum Mandatory Search for a Real Estate Transaction"**
 - Cort asked Jeff if ULTA's redlined draft change sent to Larry was their most current version. Jeff said it was. Cort suggested the Commission review it and come next meeting prepared to discuss it. Cort made a **motion** to use ULTA's redlined version of their rule as the working draft to start their discussion from in January, Jerry seconded it and the vote was unanimous.
- **New Business**
 - **Report Regarding What is Required for an Agency License When Licensing a Legal Entity and the Use of the Name of the Legal Entity / Brett, Randy, Perri**
 - Brett reported that when a title agency is licensed with the department it is required that they list their legal entity name. The Producer Licensing Division does not verify the validity of that name. However, it is verified by the Market Conduct Division. They make sure it is registered with Corporations and is not just a DBA.
 - Regarding the question that came up last month about United Title Services; their name is now compliant. Regarding United Title Services of Southern Utah – they are registered with Corporations. This is noted on the Department's database now.
 - Perri researched the question of whether an entity must use their legal name on a deed of trust. Real Estate Section 57-1-21 states that the trustee of a **trust deed** shall be any title company or agency that: (A) holds a certificate of authority or license under Title 31A, Insurance Code, to conduct

business in the state, (B) is actually doing business in the state, and (C) maintains a bona fide office in the state. As long as the Insurance Dept. continues to verify with the Division of Corporations that a title company or agency seeking a certificate of authority from the UID is operating as a valid legal entity and that the name used on the trust deed can be associated with the legal entity, our concern should be satisfied.

This section does not specifically say that the entity has to use their legal name.

- Perri said the entity that receives the license from the Insurance Department is the one on the deed of trust. It is important to know who obtained the license and the name that is on the deed of trust. The consumer has to be able to find who the legal entity is.
- Larry said that his question to Brett had been: “Can you list your name on a trust deed and convey the property on a trustee’s sale if you do not list your full name and just list your DBA?” Gale Lemon had been asked this question and suggested that the AG’s office offer an opinion on it. Matt, as an underwriter, said he would accept it.
- Brett emphasized that “the answer to the questions is, a properly licensed and affiliated DBA to a title agency, that has a legal corporate entity, is acceptable on a trustee deed; although it may not be the preferred method, it is acceptable.” Perri said it had to be validly licensed with Insurance and validly licensed or registered with Corporations.”

- **Other Business**

- Cort asked if the Commission would like to discuss sending R592-16 to formal rulemaking and out for public comment. Larry asked that this be put on January’s agenda. Cort will send a current draft of the rule to Commission members.
- Cort made a **motion** to move into Executive Session to discuss pending litigation, Jerry seconded it and the vote was unanimous.

Executive Session (Not open to the Public)

- **Motion** by Cort to go into Open Session, seconded by Dirk, vote unanimous.

General Session – No one from the public remained and no further business was needed.

- Cort made a **motion** to adjourn, seconded by Dirk, vote was unanimous.
- **Adjourn:** Cort made a **motion** to adjourn at 10:40pm
- **Next Meeting:** January 14, Spruce Room

2013 Meeting Schedule in Spruce Room
(2nd Monday except on holidays, then 3rd Monday)

Jan 14	Feb 11	Mar 11	Apr 8	May 13	June 10
July 8	Aug 12	Sep 9	Oct 21	Nov 18	Dec 9